

1 ~~Rule 71B. Proceedings where parties not summoned.~~

2 ~~(a) Effect of failure to serve all defendants. Where the action is against two or more~~
3 ~~defendants and the summons is served on one or more, but not all of them, the plaintiff~~
4 ~~may proceed against the defendants served in the same manner as if they were the~~
5 ~~only defendants.~~

6 ~~(b) Proceedings after judgment against parties not originally served. When a~~
7 ~~judgment has been recovered against one or more, but not all, of several persons jointly~~
8 ~~indebted upon an obligation, the plaintiff may require any person not originally served~~
9 ~~with the summons to appear and show cause why he should not be bound by the~~
10 ~~judgment in the same manner as though he had been originally served with process.~~

11 ~~(c) Summons and affidavit; contents and service. The plaintiff shall issue a~~
12 ~~summons, describing the judgment, and requiring the defendant to appear within the~~
13 ~~time required for appearance in response to an original summons, and show cause why~~
14 ~~he should not be bound by such judgment. The summons, together with a copy of an~~
15 ~~affidavit on behalf of the plaintiff to the effect that the judgment, or some part thereof~~
16 ~~remains unsatisfied, and specifying the amount actually due thereon, shall be served~~
17 ~~upon the defendant and returned in the same manner as the original summons.~~

18 ~~(d) What constitutes the pleadings. The pleadings shall consist of plaintiff's affidavit,~~
19 ~~the summons, and the answer of the defendant, if any; provided that if defendant denies~~
20 ~~his liability on the obligation upon which the judgment was originally recovered, a copy~~
21 ~~of the original complaint and judgment shall be included.~~

22 ~~(e) Hearing; judgment. The matter may be tried as other cases; but if the issues are~~
23 ~~found against the defendant, the judgment shall not exceed the amount of the original~~
24 ~~judgment remaining unsatisfied, with interest and costs.~~

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